
PRELIMINARY DRAFT
No. 3425

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2009 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 33-38-10.

Synopsis: Private judges. Allows former holders of a judicial office who served at least four consecutive years as a judge or justice to serve as private judges. (Current law allows only former judges of circuit, superior, criminal, probate, municipal, or county courts to serve as private judges.) Allows domestic relations cases to be assigned to private judges.

Effective: July 1, 2009.



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-38-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

- (1) has ~~been held~~ but is not currently ~~a judge of a circuit, superior, criminal, probate, municipal, or county court holding a judicial office~~ and has served in the capacity of judge **or justice** for at least four (4) consecutive years;
- (2) is admitted to the practice of law in Indiana; and
- (3) is a resident of Indiana;

may act as judge for certain cases under this chapter.

(b) A person may act as a judge of a case under this chapter only if:

- (1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom the parties wish to have as private judge;
- (2) the case is one over which the court in which the former judge served would have had subject matter and monetary jurisdiction;
- (3) the case:
 - (A) is founded exclusively on contract, tort, or a combination of contract and tort; **or**
 - (B) **involves a domestic relations matter;** and
- (4) the case is one in which a utility (as defined in IC 8-1-2-1) is not a party.

SECTION 2. IC 33-38-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A former judge **or justice** qualified under section 2(a) of this chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

- (1) compile;
- (2) periodically update; and
- (3) make available to the public;

a list of registered former judges **and justices**.



1 (b) If the parties to an action wish to have the action heard before a
2 private judge, the parties shall submit to the executive director of the
3 division of state court administration a written petition as described in
4 section 2(b)(1) of this chapter. After verifying that the former judge **or**
5 **justice** is qualified under section 2(a) of this chapter and is registered
6 under subsection (a), the executive director shall forward the petition
7 to the former judge **or justice** named on the petition.

8 (c) The regular or presiding judge of the court in which the action
9 is filed shall appoint the private judge to hear the action if the written
10 petition of the parties to the action and the written consent of the
11 private judge to hear the action ~~is~~ **are** presented to the regular or
12 presiding judge:

- 13 (1) contemporaneously with the filing of the action; or
14 (2) after the action has been filed.

